

1 **UNITED STATES DISTRICT COURT**  
2 **DISTRICT OF NEVADA**

3 Case No.: 3:18-cv-00199-MMD-CSD

4 PATRICIA G. BARNES,

5 Plaintiff

**Order**

Re: ECF Nos. 220, 221

6 v.

7 KILOLO KIJAKAZI,  
Acting Commissioner of  
Social Security Administration, et al.,

8 Defendants  
9

10 Defendant Kilolo Kijakazi has filed a motion to lift the stay and to amend the discovery  
11 plan and scheduling order. (ECF Nos. 220, 221.)<sup>1</sup> Plaintiff filed a response. (ECF No. 223.)

12 Defendants Kilolo Kijakazi and Jimmy Elkins filed a motion to dismiss Plaintiff's fourth  
13 amended complaint (ECF No. 186), and a motion to stay the case until the motion to dismiss was  
14 decided (ECF No. 187). Plaintiff did not oppose the motion to stay, and Chief Judge Du granted  
15 the motion staying the action pending resolution of the motion to dismiss. (ECF No. 208.)  
16 Plaintiff filed a motion for reconsideration of that order (ECF No. 213), which Chief Judge Du  
17 denied (ECF No. 215).

18 On May 2, 2022, Chief Judge Du issued an order granting the motion to dismiss the First  
19 Amendment retaliation claim from the fourth amended complaint, but allowed the ADEA  
20 disparate-impact age discrimination claim to proceed. (ECF No. 219.) This motion to lift the stay  
21 and amend the discovery plan and scheduling order deadlines followed. (ECF Nos. 220/221.)  
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<sup>1</sup> These documents are identical, but were filed separately by the Clerk's Office.

1 Preliminarily, the motion to dismiss has been determined; therefore, it is appropriate to  
2 lift the stay.

3 Defendant seeks to extend the scheduling order deadlines by approximately six months,  
4 making the discovery completion deadline November 1, 2022; the dispositive motions deadline  
5 December 1, 2022; and the deadline for the joint pretrial order (if dispositive motions are not  
6 filed) January 3, 2023. Plaintiff opposes the request, stating that this will unduly delay this matter  
7 which will prejudice Plaintiff. Plaintiff requests that the court approve a new scheduling order  
8 that begins on the date the court rules on Plaintiff's motion to compel discovery, and extend the  
9 discovery completion deadline out 30 days from that date.

10 Defendant's motion does not provide a basis for an extension of six months when this  
11 case has been pending since 2018; however, the court declines to enter the scheduling order  
12 requested by Plaintiff. Instead, the court will schedule a hearing to determine a reasonable  
13 extension of the discovery plan and scheduling order deadlines.

#### 14 CONCLUSION

15 The motion to lift the stay (ECF No. 220) is **GRANTED**. The motion to amend the  
16 scheduling order deadlines (ECF No. 221) is **DENIED WITHOUT PREJUDICE**. The court  
17 will schedule a hearing to determine a reasonable extension of the discovery plan and scheduling  
18 order deadlines.

19 **IT IS SO ORDERED.**

20 Dated: May 19, 2022

21   
22 Craig S. Denney  
23 United States Magistrate Judge